

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## BENJAMIN FREEMAN,

Plaintiff,

V.

USCUTTER, INC., a Delaware Corporation,

Defendant.

Case No.

## **PLAINTIFF'S COMPLAINT**

## **JURISDICTION AND VENUE**

1. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 1331 and 1367. This action is authorized and instituted pursuant to 29 U.S.C. § 2617(a)..

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington at Seattle.

## PARTIES

3. Plaintiff is a resident of the State of Washington. He was formerly employed by Defendant, USCutter, Inc.

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4. At all relevant times hereto, Defendant USCutter, Inc., has been a corporation continuously doing business in the state of Washington and, upon information and belief, has employed at least 50 employees within 75 miles of Defendant's workplace. Plaintiff had been employed by Defendant for at least 1,250 hours in the relevant previous year.

## FACTS

5. Plaintiff began working for Defendant in March 2010.

6. In August 2014, Plaintiff requested FMLA leave for the upcoming birth of his son. Defendant granted the leave beginning September 2014. The leave was to last no more than twelve weeks

7. Plaintiff began his leave on September 5, 2014, the date his son was born. In early October, Defendant notified Plaintiff that it was no longer covered by the FMLA, as it had lost employees and, as a result, fell below the 50-employee threshold. Accordingly, Defendant advised Plaintiff he needed to return to work. Plaintiff did not return to work

8. On or about October 28, 2014, Defendant again stated that it was not covered by the FMLA, and told Plaintiff that he must return to work by November 3, 2014, or he would be fired. Plaintiff did not return to work, and he was fired.

## CLAIMS

1. Family and Medical Leave Act (FMLA). Defendant's conduct in terminating Plaintiff's employment while he was on FMLA-protected paternity leave constitutes violations of the Family and Medical Leave Act, 29 U.S.C. 2601 *et seq.*

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2. Plaintiff further reserves the right to amend or supplement his complaint to include other facts or claims, as necessary.

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff prays:

1. That he have judgment against Defendant for all compensatory damages, including but not limited to, back and front pay and benefits;
2. That he be awarded double damages pursuant to 29 U.S.C. § 2617(a)(1)(A)(iii);
3. That he be awarded prejudgment interest;
4. That the court award attorney's fees and actual costs; and
5. For such other and further relief as this court deems just and equitable.

## JURY TRIAL DEMAND

Plaintiff Benjamin Freeman hereby requests a jury trial on all questions of fact raised by his complaint.

Dated this 18<sup>th</sup> day of February, 2015.

SCOTT, KINNEY, FJELSTAD & MACK, PLLC

By /s/ Donna L. Mack  
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